

CHAPTER 100

JS

LAWS OF 2020

SENATE BILL 3253A

ASSEMBLY BILL _____

STATE OF NEW YORK

3253--A

2019-2020 Regular Sessions

IN SENATE

February 5, 2019

Introduced by Sens. PARKER, SEPULVEDA -- read twice and ordered printed, and when printed to be committed to the Committee on Codes -- recommitted to the Committee on Codes in accordance with Senate Rule 6, sec. 8 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the civil rights law, in relation to recording certain law enforcement activities

A1360A/Perry

DATE RECEIVED BY GOVERNOR:

JUN 14 2020

ACTION MUST BE TAKEN BY:

JUN 14 2020

DATE GOVERNOR'S ACTION TAKEN:

JUN 25 2020

000001

SENATE VOTE 59 Y 3 N HOME RULE MESSAGE Y N

DATE 6/8/20

ASSEMBLY VOTE 128 Y 16 N

DATE 6/8/20

000002

06/08/20 S3253-A Assembly Vote Yes: 128 No : 16

06/08/20 S3253-A Senate Vote Aye: 59 Nay: 3

[Go to Top of Page](#)

Floor Votes:

06/08/20 S3253-A Assembly Vote Yes: 128 No : 16

Yes	Abbate	Yes	Abinanti	Yes	Arroyo	Yes	Ashby
Yes	Aubry	No	Barclay	Yes	Barnwell	Yes	Barrett
Yes	Barron	Yes	Benedetto	Yes	Bichotte	Yes	Blake
Yes	Blankenbush	No	Brabenec	Yes	Braunstein	Yes	Bronson
Yes	Buchwald	Yes	Burke	Yes	Buttenschon	Yes	Byrne
Yes	Byrnes	Yes	Cahill	Yes	Carroll	Yes	Colton
Yes	Cook	Yes	Crespo	Yes	Crouch	Yes	Cruz
Yes	Cusick	Yes	Cymbrowitz	Yes	Darling	Yes	Davila
Yes	De La Rosa	Yes	DenDekker	No	DeStefano	Yes	Dickens
Yes	Dilan	Yes	Dinowitz	No	DiPietro	Yes	D'Urso
Yes	Eichenstein	Yes	Englebright	Yes	Epstein	Yes	Faby
Yes	Fall	Yes	Fernandez	ER	Finch	No	Fitzpatrick
No	Friend	Yes	Frontus	Yes	Galef	ER	Gant
No	Garbarino	Yes	Giglio	Yes	Glick	Yes	Goodell
Yes	Gottfried	Yes	Griffin	Yes	Gunther A	Yes	Hawley
Yes	Hevesi	Yes	Hunter	Yes	Hyndman	Yes	Jacobson
Yes	Jaffee	Yes	Jean-Pierre	Yes	Johns	Yes	Jones
Yes	Joyner	Yes	Kim	Yes	Kolb	No	Lalor
Yes	Lavine	Yes	Lawrence	Yes	Lentol	Yes	Lifton
No	LiPetri	Yes	Lupardo	Yes	Magnarelli	Yes	Malliotakis
No	Manktelow	Yes	McDonald	Yes	McDonough	Yes	McMahon
No	Mikulin	Yes	Miller B	Yes	Miller MG	Yes	Miller ML
No	Montesano	Yes	Morinello	Yes	Mosley	Yes	Niou
Yes	Nolan	Yes	Norris	Yes	O'Donnell	Yes	Ortiz
Yes	Otis	Yes	Palmesano	No	Palumbo	Yes	Paulin
Yes	Peoples-Stokes	Yes	Perry	Yes	Pheffer Amato	Yes	Pichardo
Yes	Pretlow	Yes	Quart	No	Ra	Yes	Ramos
Yes	Reilly	Yes	Reyes	Yes	Richardson	Yes	Rivera
Yes	Rodriguez	Yes	Rosenthal D	Yes	Rosenthal L	Yes	Rozic
Yes	Ryan	Yes	Salka	Yes	Santabarbara	Yes	Sayegh
ER	Schimminger	No	Schmitt	Yes	Seawright	Yes	Simon
Yes	Simotas	No	Smith	Yes	Smullen	Yes	Solages
Yes	Stec	Yes	Steck	Yes	Stern	Yes	Stirpe
Yes	Tague	Yes	Taylor	Yes	Thiele	Yes	Vanel
Yes	Walczky	Yes	Walker	Yes	Wallace	Yes	Walsh
Yes	Weinstein	Yes	Weprin	Yes	Williams	Yes	Woerner

000003

Yes Wright

Yes Zebrowski K

Yes Mr. Speaker

[Go to Top of Page](#)**Floor Votes:**

06/08/20 S3253-A Senate Vote Aye: 59 Nay: 3

Aye	Addabbo	Nay	Akshar	Aye	Amedore	Aye	Bailey
Aye	Benjamin	Aye	Biaggi	Aye	Borrello	Aye	Boyle
Aye	Breslin	Aye	Brooks	Aye	Carlucci	Aye	Comrie
Aye	Felder	Aye	Flanagan	Aye	Funke	Aye	Gallivan
Aye	Gaughran	Aye	Gianaris	Aye	Gounardes	Aye	Griffo
Aye	Harckham	Nay	Helming	Aye	Hoylman	Aye	Jackson
Aye	Jacobs	Aye	Jordan	Aye	Kaminsky	Aye	Kaplan
Aye	Kavanagh	Aye	Kennedy	Aye	Krueger	Aye	Lanza
Aye	LaValle	Aye	Little	Aye	Liu	Aye	Martinez
Aye	May	Aye	Mayer	Aye	Metzger	Aye	Montgomery
Aye	Myrie	Aye	O'Mara	Aye	Ortt	Aye	Parker
Aye	Persaud	Aye	Ramos	Aye	Ranzenhofer	Aye	Ritchie
Aye	Rivera	Aye	Robach	Aye	Salazar	Aye	Sanders
Aye	Savino	Aye	Sepulveda	Aye	Serino	Aye	Serrano
Nay	Seward	Aye	Skoufis	Aye	Stavisky	Aye	Stewart-Cousins
Aye	Tedisco	Aye	Thomas				

000004

**NEW YORK STATE SENATE
INTRODUCER'S MEMORANDUM IN SUPPORT
submitted in accordance with Senate Rule VI. Sec 1**

BILL NUMBER: S3253A

SPONSOR: PARKER

TITLE OF BILL:

An act to amend the civil rights law, in relation to recording certain law enforcement activities

PURPOSE:

The purpose of this legislation is to unambiguously affirm, by statutory enactment, the right of New Yorkers to record, with expressed exceptions, the actions of persons acting under the color of law.

SUMMARY OF SPECIFIC PROVISIONS:

Section one of the bill provides that the act shall be known as the "New Yorker's right to monitor act."

Section two of the bill adds § 79-p to the civil rights law entitled "Recording certain activities." This section includes: definitions; delineates the right to record law enforcement related activities; creates a right of action for persons who suffer an unlawful abridgement of their right to record and an affirmative defense for persons charged with a violation of this right; and preservation of rights.

Section three of the bill includes a severability clause. Section four of the bill provides the effective date.

JUSTIFICATION:

Several Federal Circuit Courts, the First, Seventh, Ninth, and Eleventh Circuits, have issued clear and consistent opinions finding that the First Amendment of the United States Constitution openly confers and protects the right of ordinary civilians to record police activity. The right of people to document the public activities of law enforcement helps to ensure that the police and others engaged in law enforcement activities are accountable to the public.

PRIOR LEGISLATIVE HISTORY:

2018: S.2876/A.2448 - Codes / Third Reading Calendar
2017: S.2876/A.2448 - Codes/ Referred to Rules
2016: S.8074/A.10387-A - Referred to Rules

FISCAL IMPLICATIONS:

None.

000005

EFFECTIVE DATE:

Thirty days after becoming a law.

000006

DIVISION OF THE BUDGET BILL MEMORANDUM

Session Year 2020

SENATE:
No. S3253-A

ASSEMBLY:
No. A1360-A

Primary Sponsor: PARKER

Sponsor: Perry

Law: Civil Rights

Sections: 79-p

Division of the Budget recommendation on the above bill:

APPROVE:

NO OBJECTION: X

1. Subject and Purpose:

This bill would amend the civil rights law to affirm that a person not under arrest or in the custody of a law enforcement official has the right to record police activity and to maintain custody and control of that recording and of any property or instruments used by that person to record police activities. In addition, the legislation also clarifies that a person in custody or under arrest does not, by that status alone, forfeit such right to record.

The bill also establishes the right of action for persons who suffer an unlawful interference of recording by law enforcement has the right to file a civil claim.

2. Budget Implications:

This bill would have no impact on State finances.

3. Recommendation:

This bill would provide statutory authorization for people to document the public activities of law enforcement officials, as long as their actions do not physically interfere with law enforcement activity. In addition, the bill provides a civil legal remedy for persons who experience unlawful interfering of recording by law enforcement. The bill would have no impact on State finances. Accordingly, the Division of the Budget has no objection.

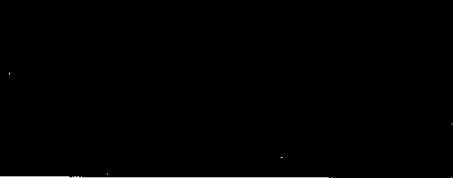
Denise Gagnon

From: Kristin Maccera <Kristin.Maccera@exec.ny.gov>
Sent: Friday, August 21, 2020 2:07 PM
To: Legislative Secretary
Subject: Correspondence [Harding, Tim] #781651

*** Please Do Not Reply to this e-mail Message.***

*** Any questions regarding this correspondence should be directed to the staff person listed below as the 'Please Respond To' contact. ***

Blank Tim Harding



Addressed to: Governor

Email Subject: (S.3253-A/A.1360) - the 'New Yorker's Right to Monitor Act'

Issue 1 82022 Legislation

Correspondence Number: 781651
Date Of Correspondence: 08/06/2020
Date Received: 08/06/2020
Date Entered: 08/06/2020
Referred To: Legislative Secretary
Date Referred:

Routing History:

08/21/2020 02:07 PM (Routed By --> Kristin Maccera) (Routed Via Outside Agency Email to --> Legislative Secretary) For Your Information

Incoming Correspondence:

As a New York citizen, I assume that your recent legislation also gives me, as a Probation Officer, the right to record probationers to monitor their behavior. Or is this another knee-jerk reaction to political correctness? There is absolutely no legitimate reason for a probationer to record me. Peace officers also have rights, and We would like to know how you plan on protecting us from having our photos posted on social media, etc. I would appreciate a response..

STATE OF NEW YORK

3253--A

2019-2020 Regular Sessions

IN SENATE

February 5, 2019

Introduced by Sens. PARKER, SEPULVEDA -- read twice and ordered printed, and when printed to be committed to the Committee on Codes -- recommitted to the Committee on Codes in accordance with Senate Rule 6, sec. 8 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the civil rights law, in relation to recording certain law enforcement activities

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. This act shall be known and may be cited as the "New
2 Yorker's right to monitor act".
3 § 2. The civil rights law is amended by adding a new section 79-p to
4 read as follows:
5 § 79-p. Recording certain activities. 1. Definitions. For purposes of
6 this section, the following terms shall have the following meanings:
7 (a) "Officer" means any peace officer, police officer, security officer,
8 security guard or similar official who is engaged in a law enforcement
9 activity;
10 (b) "Law enforcement activity" means any activity by an officer acting
11 under the color of law; and
12 (c) "Record" means to capture or attempt to capture any moving or
13 still image, sound, or impression through the use of any recording
14 device, camera, or any other device capable of capturing audio, moving
15 or still images, or by way of written notes or observations.
16 2. Right to record law enforcement related activities. A person not
17 under arrest or in the custody of a law enforcement official has the
18 right to record law enforcement activity and to maintain custody and
19 control of that recording and of any property or instruments used by
20 that person to record law enforcement activities, provided, however,
21 that a person in custody or under arrest does not, by that status alone,
22 forfeit the right to have any such recordings, property and equipment

EXPLANATION--Matter in italics (underscored) is new; matter in brackets
[] is old law to be omitted.

LBD06662-03-0

1 maintained and returned to him or her. Nothing in this subdivision shall
 2 be construed to permit a person to engage in actions that physically
 3 interfere with law enforcement activity or otherwise constitute a crime
 4 defined in the penal law involving obstructing governmental adminis-
 5 tration.

6 3. Private right of action. (a) A claim of unlawful interference with
 7 recording a law enforcement activity is established under this section
 8 when a person demonstrates that he or she exercised or attempted to
 9 exercise the right established in subdivision two of this section to
 10 record a law enforcement activity and an officer acted to interfere with
 11 that person's recording of a law enforcement activity, including but not
 12 limited to, by:

13 (i) intentionally preventing or attempting to prevent that person from
 14 recording law enforcement activity;

15 (ii) threatening that person for recording a law enforcement activity;

16 (iii) commanding that the person cease recording law enforcement
 17 activity when the person was nevertheless authorized under law to
 18 record;

19 (iv) stopping, seizing, searching, ticketing or arresting that person
 20 because that person recorded a law enforcement activity; or

21 (v) unlawfully seizing property or instruments used by that person to
 22 record a law enforcement activity, unlawfully destroying, or seizing a
 23 recorded image or recorded images of a law enforcement activity, or
 24 copying such a recording of a law enforcement activity without consent
 25 of the person who recorded it or approval from an appropriate court.

26 (b) It shall be an affirmative defense to a civil action under subparagraphs
 27 (i), (iii) and (iv) of paragraph (a) of this subdivision that at
 28 the time of such conduct by an officer, such officer had probable cause
 29 to arrest the person recording such a law enforcement activity for a
 30 crime defined in the penal law involving obstructing governmental admin-
 31 istration.

32 (c) A person subject to unlawful interference with recording law
 33 enforcement activities as described in paragraph (a) of this subdivision
 34 may bring an action for any violation of this section in any court of
 35 competent jurisdiction for damages, including punitive damages, for
 36 declaratory and injunctive relief, and such other remedies as the court
 37 may deem appropriate.

38 (d) In any action or proceeding brought pursuant to this section, the
 39 court may allow a prevailing plaintiff reasonable attorney's fees and
 40 expert fees as a part of the costs which may be recovered.

41 (e) Any action or proceeding brought pursuant to this section shall be
 42 commenced no later than three years after the date on which the
 43 violation of this section is committed.

44 4. Preservation of rights. This section shall be in addition to all
 45 rights, procedures, and remedies available under the United States
 46 Constitution, 42 USC 1983, the constitution of the state of New York and
 47 all other federal law, state law, law of the city of New York or the
 48 administrative code of the city of New York, and all other civil reme-
 49 dies, including monetary damages, created by statute, ordinance, regu-
 50 lation or common law.

51 § 3. Severability clause. If any clause, sentence, paragraph, subdivi-
 52 sion, section or part of this act shall be adjudged by any court of
 53 competent jurisdiction to be invalid, such judgment shall not affect,
 54 impair, or invalidate the remainder thereof, but shall be confined in its
 55 operation to the clause, sentence, paragraph, subdivision, section or
 56 part thereof directly involved in the controversy in which such judge-

1 ment shall have been rendered. It is hereby declared to be the intent of
2 the legislature that this act would have been enacted even if such
3 invalid provisions had not been included herein.

4 § 4. This act shall take effect on the thirtieth day after it shall
5 have become a law.

S3253-A PARKER Same as A 1360-A Perry

ON FILE: 03/10/20 Civil Rights Law

TITLE....Relates to recording certain law enforcement activities

02/05/19 REFERRED TO CODES

01/08/20 REFERRED TO CODES

03/10/20 AMEND AND RECOMMIT TO CODES

03/10/20 PRINT NUMBER 3253A

06/08/20 REPORTED AND COMMITTED TO RULES

06/08/20 ORDERED TO THIRD READING CAL.678

06/08/20 PASSED SENATE

06/08/20 DELIVERED TO ASSEMBLY

06/08/20 referred to codes

06/08/20 substituted for a1360a

06/08/20 ordered to third reading cal.70

06/08/20 passed assembly

06/08/20 returned to senate

06/14/20 DELIVERED TO GOVERNOR

06/14/20 SIGNED **CHAP.100**

06/08/20 S3253-A Assembly Vote Yes: 128 No : 16

Yes	Abbate	Yes	Abinanti	Yes	Arroyo	Yes	Ashby
Yes	Aubry	No	Barclay	Yes	Barnwell	Yes	Barrett
Yes	Barron	Yes	Benedetto	Yes	Bichotte	Yes	Blake
Yes	Blankenbush	No	Brabenec	Yes	Braunstein	Yes	Bronson
Yes	Buchwald	Yes	Burke	Yes	Buttenschon	Yes	Byrne
Yes	Byrnes	Yes	Cahill	Yes	Carroll	Yes	Colton
Yes	Cook	Yes	Crespo	Yes	Crouch	Yes	Cruz
Yes	Cusick	Yes	Cymbrowitz	Yes	Darling	Yes	Davila
Yes	De La Rosa	Yes	DenDekker	No	DeStefano	Yes	Dickens
Yes	Dilan	Yes	Dinowitz	No	DiPietro	Yes	D'Urso
Yes	Eichenstein	Yes	Englebright	Yes	Epstein	Yes	Fahy
Yes	Fall	Yes	Fernandez	ER	Finch	No	Fitzpatrick
No	Friend	Yes	Frontus	Yes	Galef	ER	Gantt
No	Garbarino	Yes	Giglio	Yes	Glick	Yes	Goodell
Yes	Gottfried	Yes	Griffin	Yes	Gunther A	Yes	Hawley
Yes	Hevesi	Yes	Hunter	Yes	Hyndman	Yes	Jacobson
Yes	Jaffee	Yes	Jean-Pierre	Yes	Johns	Yes	Jones
Yes	Joyner	Yes	Kim	Yes	Kolb	No	Lalor
Yes	Lavine	Yes	Lawrence	Yes	Lentol	Yes	Lifton
No	LiPetri	Yes	Lupardo	Yes	Magnarelli	Yes	Malliotakis
No	Manktelow	Yes	McDonald	Yes	McDonough	Yes	McMahon
No	Mikulin	Yes	Miller B	Yes	Miller MG	Yes	Miller ML
No	Montesano	Yes	Morinello	Yes	Mosley	Yes	Niou
Yes	Nolan	Yes	Norris	Yes	O'Donnell	Yes	Ortiz
Yes	Otis	Yes	Palmesano	No	Palumbo	Yes	Paulin
Yes	Peoples-Stokes	Yes	Perry	Yes	Pheffer Amato	Yes	Pichardo
Yes	Pretlow	Yes	Quart	No	Ra	Yes	Ramos
Yes	Reilly	Yes	Reyes	Yes	Richardson	Yes	Rivera
Yes	Rodriguez	Yes	Rosenthal D	Yes	Rosenthal L	Yes	Rozic
Yes	Ryan	Yes	Salka	Yes	Santabarbara	Yes	Sayegh
ER	Schimminger	No	Schmitt	Yes	Seawright	Yes	Simon
Yes	Simotas	No	Smith	Yes	Smullen	Yes	Solages
Yes	Stec	Yes	Steck	Yes	Stern	Yes	Stirpe
Yes	Tague	Yes	Taylor	Yes	Thiele	Yes	Vanel
Yes	Walczuk	Yes	Walker	Yes	Wallace	Yes	Walsh
Yes	Weinstein	Yes	Weprin	Yes	Williams	Yes	Woerner
Yes	Wright	Yes	Zebrowski K	Yes	Mr. Speaker		

NYLS Note: 36 pages of debate.

06/08/20 S3253-A Senate Vote Aye: 59 Nay: 3

Aye	Addabbo	Nay	Akshar	Aye	Amedore	Aye	Bailey
Aye	Benjamin	Aye	Biaggi	Aye	Borrello	Aye	Boyle
Aye	Breslin	Aye	Brooks	Aye	Carlucci	Aye	Comrie
Aye	Felder	Aye	Flanagan	Aye	Funke	Aye	Gallivan
Aye	Gaughran	Aye	Gianaris	Aye	Gounardes	Aye	Griffo
Aye	Harckham	Nay	Helming	Aye	Hoyleman	Aye	Jackson
Aye	Jacobs	Aye	Jordan	Aye	Kaminsky	Aye	Kaplan
Aye	Kavanagh	Aye	Kennedy	Aye	Krueger	Aye	Lanza
Aye	LaValle	Aye	Little	Aye	Liu	Aye	Martinez
Aye	May	Aye	Mayer	Aye	Metzger	Aye	Montgomery
Aye	Myrie	Aye	O'Mara	Aye	Ortt	Aye	Parker
Aye	Persaud	Aye	Ramos	Aye	Ranzenhofer	Aye	Ritchie
Aye	Rivera	Aye	Robach	Aye	Salazar	Aye	Sanders
Aye	Savino	Aye	Sepulveda	Aye	Serino	Aye	Serrano
Nay	Seward	Aye	Skoufis	Aye	Stavisky	Aye	Stewart-Cousins
Aye	Tedisco	Aye	Thomas				

NYLS Note: No debate.

**NEW YORK STATE SENATE
INTRODUCER'S MEMORANDUM IN SUPPORT
submitted in accordance with Senate Rule VI. Sec 1**

BILL NUMBER: S3253A

SPONSOR: PARKER

TITLE OF BILL:

An act to amend the civil rights law, in relation to recording certain law enforcement activities

PURPOSE:

The purpose of this legislation is to unambiguously affirm, by statutory enactment, the right of New Yorkers to record, with expressed exceptions, the actions of persons acting under the color of law.

SUMMARY OF SPECIFIC PROVISIONS:

Section one of the bill provides that the act shall be known as the "New Yorker's right to monitor act."

Section two of the bill adds § 79-p to the civil rights law entitled "Recording certain activities." This section includes: definitions; delineates the right to record law enforcement related activities; creates a right of action for persons who suffer an unlawful abridgement of their right to record and an affirmative defense for persons charged with a violation of this right; and preservation of rights.

Section three of the bill includes a severability clause. Section four of the bill provides the effective date.

JUSTIFICATION:

Several Federal Circuit Courts, the First, Seventh, Ninth, and Eleventh Circuits, have issued clear and consistent opinions finding that the First Amendment of the United States Constitution openly confers and protects the right of ordinary civilians to record police activity. The right of people to document the public activities of law enforcement helps to ensure that the police and others engaged in law enforcement activities are accountable to the public.

PRIOR LEGISLATIVE HISTORY:

2018: S.2876/A.2448 - Codes / Third Reading Calendar
2017: S.2876/A.2448 - Codes/ Referred to Rules
2016: S.8074/A.10387-A - Referred to Rules

FISCAL IMPLICATIONS:

None.

EFFECTIVE DATE:

Thirty days after becoming a law.